

Appl. No. : 09/231,415
Filed : January 14, 1999

REMARKS

Pending Claims

Claims 26 and 100-114 are pending in this application.

Canceled Claims

The Examiner requested clarification as to which claims are canceled. Claims 1-25, 27-99, and 115-132 are canceled.

The Applicants previously canceled Claims 1-25, 27-99, and 115-116 without prejudice or disclaimer.

The Applicants understand that the Examiner withdrew Claims 117-132 from consideration as allegedly drawn to non-elected subject matter. In light of this withdrawal, the Applicants want to fully remove Claims 117-132 from this application. Accordingly, the Applicants have canceled Claims 117-132 without prejudice or disclaimer.

The Applicants reserve the right to prosecute the canceled claims in one or more continuation or divisional applications.

Rejections

The Examiner rejected Claims 26 and 100-114 as allegedly being indefinite. The Examiner also rejected Claims 26 and 100-114 as allegedly being obvious in view of United States Patent No. 5,940,807 to Purcell and United States Patent No. 6,041,310 to Green et al.

The Applicants traverse the rejections as follows.

Indefiniteness Rejection

The Examiner rejected Claims 26 and 100-114 as allegedly being indefinite. The Examiner states that a system claim "should always claim the structure or the hardware that performs the function" and that the term "module" does not define structure. June 20, 2006 Office Action at 2.

The Applicants believe that the claims already define appropriate structure. The Applicants, however, have amended Claim 26 to make it clear that the module is software (computer program instructions) stored on a computer-readable medium.

The Applicants ask the Examiner to withdraw the indefiniteness rejections.

Appl. No. : 09/231,415
Filed : January 14, 1999

Obviousness Rejections

The Examiner also rejected Claims 26 and 100-114 as allegedly being obvious in view of the Purcell patent and the Green patent. M.P.E.P. § 2142 sets forth three criteria that the Examiner must satisfy to establish a *prima facie* case of obviousness:

First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

The Applicants respectfully traverse the rejection because these criteria are not met. For example, even if it were proper to combine the Purcell and Green patents (which it is not), the combination still does not teach every limitation of the rejected claims.¹

Claim 26: The system of Claim 26 differs fundamentally from the Purcell system. Both systems try to bring buyers and sellers together to complete sales—but they have two completely different approaches. Purcell's approach is to broadcast seller inventory information to a large number of buyers so that buyers can decide what to buy. Purcell patent, cols. 3:50-4:8. Purcell lets buyers filter the sellers' inventory information, thus giving buyers control over which sellers' inventory information the system displays to the buyer. Purcell patent, col. 4:20-32.

The system of Claim 26 has a different approach. Rather than providing seller information to the buyer, the system of Claim 26 does exactly the reverse. It provides buyer purchase requests to sellers. Further, unlike Purcell's broadcast of seller information, the system of Claim 26 is very selective in its transmission of buyer purchase requests. Thus, as set forth in Claim 26, the system database designates “limited groups of one or more dealers” that have

¹ Because Purcell and Green do not teach the claimed invention even if they could be properly combined, Applicants do not address the other two criteria in detail. In fact, however, there is no motivation or suggestion to combine the references, and no reasonable expectation of success, because the references are not compatible with each other and have very little, if any, relationship to the claimed invention. [NOTE: Applicants filed their original response to the June 20, 2006 Office Action, including their citation of the MPEP's test for *prima facie* obviousness, before the Supreme Court issued its *KSR v. Teleflex* opinion. Applicants believe that *KSR v. Teleflex* does not change the conclusion that Purcell and Green cannot properly be combined.]

Appl. No. : 09/231,415
Filed : January 14, 1999

access to each buyer's purchase request. Each limited group "has substantially fewer dealers than an unlimited group of dealers that includes every dealer accessible to the dealer."

Limiting the dealers that can access purchase requests, as Claim 26 requires, has at least two advantages over Purcell's system. First, it improves the dealers' chance to convert a purchase request into an actual sale. When a buyer shops from a large number of sellers (as Purcell promotes), an individual seller has very little chance to make an actual sale because the seller is competing with many other sellers. From the sellers' perspective, therefore, Purcell's transmission of many sellers' information is a big disadvantage. The system of Claim 26, however, substantially limits the number of dealers competing for each buyer's business, thereby increasing the dealers' chances to make sales. Second, limiting the dealers that can access purchase requests also provides an advantage to buyers. Specifically, limiting dealers makes it easier to monitor designated dealers to ensure that the dealers comply with quality standards.

In view of the fundamental differences between Purcell's system and the system of Claim 26, it becomes apparent that Claim 26 is patentable over Purcell and Green based at least on the following limitations:

- "a plurality of limited groups of one or more dealers accessible to the buyer and that are designated to have access to purchase requests that identify a product that the dealers sell, wherein each limited group of dealers has substantially fewer dealers than an unlimited group of dealers that includes every dealer accessible to the buyer that sells the product"
- "a buyer-dealer association software module stored on a computer-readable medium and configured to exclusively assign each purchase request received from a potential buyer to the one or more dealers designated by the system database to have access to the purchase request; and"
- "a dealer access software module stored on a computer-readable medium and configured to permit each dealer to access the system database over a computer network using a remote terminal and to view and manage only those purchase requests assigned to the dealer."

Appl. No. : 09/231,415
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In addition, Claim 26 is patentable over Purcell and Green for another reason. Claim 26 requires that dealers can “view and manage **only** those purchase requests assigned to the dealer” (emphasis added). Purcell does not teach exclusive dealer access to purchase requests. Instead, Purcell teaches each seller’s ability “to exclusively access that seller’s **inventory information**.” Purcell patent, col. 3:60-61 (emphasis added). Inventory information is not a “purchase request.”

Moreover, the Applicants respectfully disagree with the Examiner’s finding that the Green patent teaches a “dealer access module” that permits each dealer “to view and manage only those purchase requests assigned to the dealer.” The Green patent discloses a kiosk inside a dealership that performs the steps of “contacting a linked salesperson responsive to a customer-initiated request from the [kiosk] and storing the customer query and selected inventory in the storage device.” Green patent, col. 3:54-57. Even if a “linked salesperson” as disclosed by Green is a “dealer” as claimed, the Green patent does not indicate that the linked salesperson is permitted to “view and manage only those purchase requests assigned to the dealer.”

In light of the foregoing distinctions and advantages, Applicants respectfully submit that Claim 26 is patentable over the prior art of record.

Claims 100-114: Claims 100-114 depend from Claim 26 and thus incorporate every limitation of Claim 26. Accordingly, Claims 100-106 are patentable over the Purcell patent and the Green patent at least for the reasons set forth above with respect to Claim 26. Applicants further submit that Claims 100-114 are independently patentable in light of the additional limitations set forth therein.

The Applicants ask the Examiner to withdraw the obviousness rejections.

Correction of Informalities

Applicants believe that all informalities, such as misidentification of the status of claims, have been corrected. To expedite substantive prosecution, if any informalities remain, Applicants invite the Examiner to call Applicants’ attorney at (949) 721-2897 to discuss and resolve all such informalities in a single phone call.

Conclusion

For the reasons stated, Applicants respectfully request the Examiner to allow Claims 26 and 100-114. If any issues remain that may be resolved by telephone, Applicants invite the Examiner to contact Applicants’ attorney at (949) 721-2897.

Appl. No. : 09/231,415
Filed : January 14, 1999

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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